IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 30635 of 2005(V)

PETITIONER:

LALITHAMMA. S., THARAYIL HOUSE,
ANJILIKKAD, AROOR P.O., ALAPPUZHA.

BY ADV. SRI.C.S.AJITH PRAKASH
SRI.T.D.SALIM

RESPONDENTS:

---

1. STATE OF KERALA, REP. BY ITS
SECRETARY TO GOVERNMENT, HIGHER EDUCATION
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR, DIRECTORATE OF
COLLEGIATE EDUCATION, VIKAS BHAVAN BUILDING,
THIRUVANANTHAPURAM.

3. KERALA PUBLIC SERVIE COMMISSION
REP. BY ITS SECRETARY, PATTOM P.O.,
THIRUVANANTHAPURAM.

4. THE DISTRICT OFFICER,
KERALA PUBLIC SERVICE COMMISSION,
MALAPPURAM.

BY GOVERNMENT PLEADER SMT. N.SUDHA DEVI
ADV. SRI. P.C. SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1: TRUE PHOTOCOPY OF THE RELEVANT PAGE OF THE SUPPLEMENTARY RANK LIST DATED 21-6-2000

EXHIBIT-P2: TRUE COPY OF THE ORDER DATED 13.1.2003 IN O.P. NO.36010/2002

EXHIBIT-P3: TRUE COPY OF THE ORDER DATED 15.11.2003 IN O.P. NO.36010/2002

EXHIBIT-P4: TRUE COPY OF THE JUDGMENT IN WRIT PETITION (C) NO.17118/2005 DATED 15.6.2005

EXHIBIT-P5: TRUE COPY OF THE COVERING LETTER SERVED BY THE PETITIONER TO ALL THE RESPONDENTS SHOWING THE FORWARDING OF THE JUDGMENT DATED 24.7.2005

EXHIBIT-P6: TRUE COPY OF THE LETTER NO.MR.2 (1)-1069/1999 DATED 20.10.2005 SERVED TO THE PETITIONER

EXHIBIT-P7: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE CHAIRMAN, PSC DATED 29.3.2004

/TRUE COPY/

P.A. TO JUDGE

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 30635 of 2005-V

Dated this the 26th day of June, 2007.

J U D G M E N T

The petitioner was a candidate included in the rank list, published by the Public Service Commission, for appointment to the post of L.D. Clerks, in various departments, in Malappuram District. The rank list was published on 21-6-2000. It expired on 30-12-2003. Certain vacancies which were reported pursuant to the interim order of this Court, during the currency of the said rank list are not acted upon. In other words, candidates were not advised to those vacancies as this Court has also put a rider that advice need be made only after getting further orders from this Court. In the meantime, new list came into force on 31-12-2003. It was being operated. While so, by Ext.P4 judgment disposing of the writ petition filed by the petitioner and another, this Court directed the Public Service Commission to advise candidates to those vacancies. So, candidates were advised from the expired list. But, the rotation started from the point last advice was made from the existing list. According to the petitioner, if the appointment started from the point where the last appointment was made from the previous list, her turn would have arisen as she is Rank No.1 in the supplementary list of Dheevara candidates.

2. Dealing with the above claim of the petitioner, the Public Service

Commission has filed a counter affidavit wherein it is stated as follows:

> "The main averment of the petitioner is that if the rotation would have continued at the point where it stood at the time of the expiry of the Ranked list on 30-12-03, she would have got advice, is not good at facts and law. The rotation stood at MR XXXX 65 OC when candidates were advised to all the vacancies reported till the cancellation of the Ranked List on 30-12-03. The turn earmarked for 'Dheevara' Community is at 50 in a block of 100, which was already satisfied with a candidate senior in rank to the petitioner. The rotation is a continues process and on any count the turn of the petitioner did not arise for advice."

Going by the above averment, the contention of the Public Service Commission is that when the rank list expired on 30-12-2003, the rotation stood at MR XXXX 65 OC. The turn of the Dheevara community arose at roaster point 50. So, even if the advice started where the rotation was stopped on 30-12-2003, another Dheevara cannot get a chance on advising candidate. The petitioner has not filed any reply affidavit. But, the learned counsel for the petitioner submitted that the Public Service Commission has not specifically denied her claim raised in the writ petition. But, going by the averments in para 6 of the counter affidavit, I find ambiguity in the ..... The inference that can be drawn is that the petitioner's turn would not have arisen on advice from the point where the roaster stopped at the time of expiry of previous rank list.

In the result, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS